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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/721,826 | 11/26/2003 | Edmund Radmacher | 16202.970 | 4787 |
| 7590 | 09/06/2005 | | EXAMINER | |
| Joseph W. Berenato, III Liniak, Berenato & White, LLC Suite 240 6550 Rock Spring Drive Bethesda, MD 20817 | | | NAGPAUL, JYOTI | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1743 | |
| DATE MAILED: 09/06/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/721,826 | RADMACHER ET AL. | |
| | Examiner | Art Unit | |
| | Jyoti Nagpaul | 1743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 June 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Amendment filed on February 23, 2005 is acknowledged. Claims 1-20 are pending.

Response to Amendment

Rejection of Claims 1-20 has been modified in light of applicant's remarks

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 637028).**

Smith discloses a centrifuge tube for dispensing urine or serum/ processing biomolecules. The separation device comprises a separation column (142) that has a top side inlet (146) and a bottom side outlet (152) and in which separation material (150) is arranged and a collection vessel (162) for collecting the liquid exiting from the outlet (152), where in the separation column (142) is inserted into the collection vessel (50) and is closed off with a removable cover (44). (See Fig. 22) The separation column (142) has an edge flange (149) that is pressed onto the collection vessel (162) by means of the cover (40). (See Fig. 22) Smith discloses the interior of the collection vessel and the separation column has pressure-equalizing connection (154 and according to Figure 22, the pressure-equalizing connection is the space between the

collection vessel (162) and separation column (142)), in addition to the outlet (152) from the separation column. According to Figure 22, a pressure-equalizing connection has a port/openings (154) in the upper region of the separation column (142). In Figure 22, the edge flange (149) lies on the upper edge of the collection vessel (50). With regards to Claim 12, it appears that the volume enclosed by the collection vessel (50) beneath the lower end of the outlet (144) of the separation column (142) is at least 1.5 times as large as the free volume of the separation column. Smith teaches different variations of the same embodiment. Smith teaches the use of a filter (140) arranged in the separation column as shown in Figures 20 or 20A. (Col. 17, Lines 28-33).

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN


YELENA GAKH
PRIMARY EXAMINER